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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-11028-2018 (O&M)
Date of Decision:16.09.2024

SENIOR SUPERINTENDENT OF POST OFFICES Petitioner
Versus

SOHAN SINGH AND OTHERS Respondents

2) CWP-1042-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner
Versus

MAJOR RAM AND OTHERSRespondents

3) CWP-1096-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner
Versus

SANJIV KUMAR AND OTHERSRespondents

4) CWP-16397-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner
Versus

SMT SUSHMA SAWHNEY AND OTHERSRespondents

5) CWP-16402-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner
Versus

MOHINDER LAL AND OTHERSRespondents



6) CWP-16403-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

URMILA DEVI AND OTHERSRespondents

7) CWP-16404-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

RAM KUMAR AND OTHERSRespondents

8) CWP-16405-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

JAYANTI DEVI AND OTHERSRespondents

9) CWP-18517-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

RADHAKRISHAN AND OTHERSRespondents

10) CWP-18518-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

SHANTI DEVI AND OTHERSRespondents

11) CWP-18519-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

KAMLESH AND OTHERS.....Respondents

12)CWP-18520-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

SHEELA DEVI AND OTHERS.....Respondents

13)CWP-18760-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

KEHAR SINGH AND OTHERS.....Respondents

14)CWP-18790-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

GAJE SINGH AND OTHERS....Respondents

15)CWP-19677-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

SANJAY AND OTHERS.....Respondents

16)CWP-19681-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICES.....Petitioner

Versus

PARDEEP AND OTHERS....Respondents



17) CWP-19691-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

BALWAN SINGH AND OTHERSRespondents

18) CWP-19814-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

SMT BALKESH W/O LATE SH SURESH PAL AND OTHERS
.....Respondents

19) CWP-19816-2018 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

DHARAMPAL AND OTHERSRespondents

20) CWP-2593-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

KASHMIRI LAL AND OTHERSRespondents

21) CWP-3008-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

MAKHAN LAL AND ORSRespondents

22) CWP-953-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

CWP-11028-2018
and other connected cases.

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2024:PHHC:121958



Versus

SARBJIT SINGH AND OTHERSRespondents

23) CWP-958-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

HARBHAJAN SINGH AND OTHERSRespondents

24) CWP-969-2019 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

ASA NAND AND OTHERSRespondents

25) CWP-27177-2017 (O&M)

SENIOR SUPERINTENDENT OF POST OFFICESPetitioner

Versus

JAI PAL AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vipul Aggarwal, Sr. Panel Counsel
for the petitioner-UOI in CWP-11028-2018, CWP-16397-
2018, CWP-16402-2018, CWP-16403-2018, CWP-16404-
2018, CWP-16405-2018, CWP-1042-2019, CWP-1096-
2019, CWP-2593-2019, CWP-3008-2019, CWP-953-2019 &
CWP-969-2019.

Mr. Alankrit Bhardwaj, Advocate
for the petitioner-UOI in CWP-27177-2017.

Mr. Anil Chawla, Sr. Panel Counsel
for the petitioner-UOI in CWP-18517-2018, CWP-18518-
2018, CWP-18519-2018, CWP-18520-2018, CWP-18760-



2018, CWP-18790-2018, CWP-19677-2018, CWP-19681-2018, CWP-19691-2018, CWP-19814-2018, CWP-19816-2018 & CWP-958-2019.

Mr. S.S. Mor, Advocate
for respondent No.1 in CWP No.19814 of 2018.

Mr. Ram Pal Rana, Advocate
for the respondent No.1 in CWP-16397-2018, CWP-16402-2018, CWP-16403-2018, CWP-16404-2018, CWP-16405-2018, CWP-18517-2018, CWP-18518-2018, CWP-18519-2018, CWP-18520-2018, CWP-18760-2018, CWP-18790-2018, CWP-19677-2018, CWP-19681-2018, CWP-19814-2018 & CWP-19816-2018 and
Mr. R.P. Mehra, Advocate
for respondent No.1 in CWP No.27177 of 2017.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, a bunch of 25 petitions is hereby disposed of since issues involved and prayer sought in the captioned petitions are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-11028-2018.

2. This is a bunch of 25 petitions. There is representation on behalf of the respondents in 16 cases. Despite service, the respondents in remaining cases have opted to abstain from participating in the proceedings. The matter is pending before this Court since 2018 and it would not be appropriate to keep it further pending especially in view of judgment of Supreme Court in '*Senior Superintendent of Post Office Vs. Gursewak Singh and other*' (2019) 15 SCC 292.

3. The petitioner-Senior Superintendent of Post Offices, Department of Post and Telegraphs, Jalandhar through instant petition under Articles 226/227 of the Constitution is seeking setting aside of



order dated 30.03.2017 (Annexure P-5) passed by Controlling Authority and order dated 31.10.2017 (Annexure P-7) passed by Appellate Authority under the Payment of Gratuity Act, 1972 (for short '1972 Act') whereby authorities have directed petitioner to pay gratuity under 1972 Act alongwith simple interest @ 10% per annum.

4. The respondent No.1 joined as Gramin Dak Sewak on 11.05.1987 and worked with petitioner till 17.03.2012. His service was initially governed by rules known as Posts and Telegraphs Extra Departmental Agents (Conduct and Service) Rules, 1964. These rules were substituted by another set of rules known as Gramin Dak Sewak (Conduct and Engagement) Rules, 2011 (for short '2011 Rules'). The petitioner, at the time of respondent's superannuation, paid him dues according to applicable rules and regulations. The respondent after a period of 04 years filed an application dated 23.09.2016 before Controlling Authority claiming gratuity under 1972 Act. The respondent, at the time of superannuation, was paid gratuity in terms of 2011 Rules. The Controlling Authority held that respondent is entitled to additional sum of ₹62,091/- towards gratuity alongwith simple interest @ of 10% per annum. The petitioner preferred an appeal before Appellate Authority which came to be dismissed.

5. Mr. Vipul Aggarwal, Sr. Panel Counsel, Mr. Anil Chawla, Sr. Panel Counsel and Mr. Alankrit Bhardwaj, Advocate for the petitioner(s) submit that issue in hand stands settled by Supreme Court in ***Gursewak Singh (supra)***. The matter before Supreme Court had come up against a judgment passed by a Division Bench of this Court in ***LPA No.1612 of 2017*** titled as '***Senior Superintendent of Post Office Vs.***



Gursewak Singh and other'. The Supreme Court has clearly held that a Gramin Dak Sewak is not an employee under 1972 Act. In view of judgment of Supreme Court, the respondents are not entitled to additional amount of gratuity under 1972 Act.

6. On being confronted with findings returned by Supreme Court in aforesaid judgment, Mr. Ram Pal Rana, Advocate for the respondent(s), submits that Gursewak Singh was not duly represented before Supreme Court. An Amicus Curiae was appointed by Supreme Court. The Supreme Court has not considered its earlier judgment in '***Municipal Corporation, Delhi Vs. Dharam Parkash Sharma and another***' (1998) 7 SCC 221 and '***E.I.D. Parry (I) Ltd. Vs. G. Omkar Murthy***' (2001) 4 SCC 68.

7. Concededly, judgment in the case of ***Gursewak Singh (supra)*** has been passed by Supreme Court on 15.03.2019 and judgment cited by learned counsel for the respondent(s) are much prior in time. The judgment in the case of ***Dharam Parkash Sharma (supra)*** was passed on 29.07.1998 and in the case of ***G. Omkar Murthy (surpa)*** was passed on 27.03.2001. Besides that the judgment of ***Gursewak Singh (supra)*** relates to petitioner itself i.e. Post Office and respondent therein was Gramin Dak Sewak. The respondent herein is also Gramin Dak Sewak. The case in hand is squarely covered by judgment of Supreme Court in ***Gursewak Singh (supra)***. As per said judgment, a Gramin Dak Sewak is not an employee in terms of 1972 Act. The respondents do not fall within the definition of 'employee' as defined under Section 2 of 1972 Act, thus 1972 Act is inapplicable to them and they cannot claim gratuity under the said Act. They have already been paid gratuity under 2011 Rules.



8. In the wake of judgment of Supreme Court in *Gursewak Singh (supra)*, the present petitions deserve to be allowed and accordingly allowed. The impugned orders dated 30.03.2017 (Annexure P-5) and dated 31.10.2017 (Annexure P-7) are hereby set aside.

9. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

16.09.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>